

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

iRACING.COM MOTORSPORT SIMULATIONS LLC, )  
a Delaware Limited Liability Company, Plaintiff )

V. )

Civil Action No.

05-11639 NG

TIM ROBINSON, individually and d/b/a )  
[www.ow-racing.com](http://www.ow-racing.com) and [www.torn8oalley.com](http://www.torn8oalley.com), )  
Defendant )

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DEFENDANT TIM ROBINSON'S OPPOSITION TO PLAINTIFF'S  
CROSS-MOTION FOR REASONABLE COSTS AND ATTORNEY'S FEES

Defendant Tim Robinson respectfully OPPOSES Plaintiff's Cross-Motion for Reasonable Costs and Attorney's Fees, on the grounds that Defendant has NOT withheld any files or documents from Plaintiff.

This is not a case where defendant purposefully has withheld documents or files. Defendant's position has been that he does not have further files or documents responsive to plaintiff's motion to compel. Defendant cannot produce what he does not have.

The grounds for plaintiff's motion was a snapshot of icons that once appeared on defendant Robinson's computer, some of which icons indicated that they related to files relevant to this case. Robinson has reaffirmed, by affidavit under oath, that any such files were deleted long prior to the commencement of this action and, most probably, before the date of the snapshot of the icons. Thus, plaintiff's suspicions were unfounded and should not be rewarded. Robinson has paid enough of a price by being required to invest substantial time and effort into

attempting to again “prove a negative.”

By his attorneys,

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